

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.289 OF 1998

The Commissioner of Income-tax,
Bombay City - I, Bombay .. Applicant.
V/s.
Tata Engg. & Locomotive
Co. Ltd. .. Respondent.

Mr.A.S. Rao for the applicant.
Mr.P.C. Tripathi for the respondent.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 11TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant.
The Tribunal has referred the question for the
opinion of this Court reading as under :-

Whether in the facts and in the circumstances
of the case, the Tribunal was right in law in
holding that the disallowance out of
expenditure incurred on payment of salary and
perquisites to employee-directors should be
made under the provisions of section 40(c) of
the I.T. Act and not under those of 40A(5)
of the Act ?

2. The above question has already been answered
by the Division Bench of this Court in the case of
**CIT V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201
I.T.R. 567 (Bom)]** in favour of the assessee and
against the revenue. In this view of the matter,
question stands answered in affirmative for the
reasons stated in the case of Hico Products (P) Ltd.
Reference, accordingly stands disposed of with no
order as to costs.
